

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Khammesherma Smith,)	
)	
Plaintiff,)	C.A. No. 6:22-2666-HMH-KFM
)	
vs.)	OPINION & ORDER
)	
Jeremie Tobey, Gordon Thomas,)	
Unknown Members of Cypress Inmate)	
Roster,)	
Defendants.)	

This matter is before the court on Khammesherma Smith’s (“Smith”) untimely objections, which the court construes as a motion for relief from judgment pursuant to Rule 60(b) of the Federal Rules of Civil Procedure. For the reasons set forth below, the court denies the motion.

On September 13, 2022, United States Magistrate Judge Kevin F. McDonald recommended dismissing this action without prejudice, without further leave to amend, and without issuance and service of process. (R&R, ECF No. 14.) Objections to the Report and Recommendation were due by September 27, 2022. Smith filed timely objections to the Report and Recommendation. After review, the court adopted the Report and Recommendation and dismissed this action in an order dated September 26, 2022. (Order, ECF No. 19.) Smith filed the instant motion on October 27, 2022.¹ (Mot. Relief, ECF No. 22.)

¹ Houston v. Lack, 487 U.S. 266 (1988).

Rule 60(b) “invest[s] federal courts with the power in certain restricted circumstances to vacate judgments whenever such action is appropriate to accomplish justice.” Compton v. Alton S.S. Co., 608 F.2d 96, 101-02 (4th Cir. 1979) (internal quotation marks omitted). “The remedy provided by the Rule, however, is extraordinary and is only to be invoked upon a showing of exceptional circumstances.” Id. at 102. Rule 60(b) “does not authorize a motion merely for reconsideration of a legal issue.” United States v. Williams, 674 F.2d 310, 312 (4th Cir. 1982). “Where the motion is nothing more than a request that the district court change its mind . . . it is not authorized by Rule 60(b).” Id. at 313.

Upon review, Smith fails to show any exceptional circumstances or defects in the court’s decision. Based on the foregoing, Smith’s motion for relief from judgment is denied.

It is therefore

ORDERED that Smith’s motion, docket number 22, is denied.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
Senior United States District Judge

Greenville, South Carolina
November 8, 2022

NOTICE OF RIGHT TO APPEAL

The Movant is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.